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Introduction to Financial Services: Insurance

This In Focus provides a summary of the insurance market and regulatory system in the United States.

Market Structure

Insurance companies constitute a major segment of the U.S. financial services industry. The insurance industry is often separated into two parts:

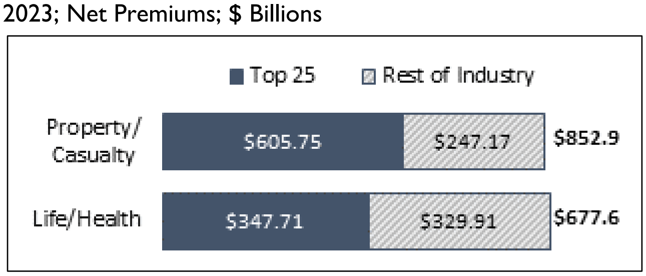
1. *Life and health insurance*, which also includes annuity products; and
2. *Property and casualty insurance*, which includes most other lines of insurance, such as homeowners insurance, automobile insurance, and various commercial lines of insurance purchased by businesses.

According to the insurance rating agency A. M. Best, 2023 net premiums for the more than 300 life/health companies (with over 800 subsidiaries) in the United States totaled $677.6 billion, with admitted assets totaling $8.63 trillion. The 2023 net premiums for the more than 1,000 property/casualty insurance companies (with over 2,800 subsidiaries) totaled $852.9 billion, with admitted assets totaling $2.81 trillion.

Despite the large numbers of insurance companies, both life/health and property/casualty insurances are also reasonably concentrated industries, with the top 25 life/health company groups writing 51.3% of overall premiums and the top 25 property/casualty company groups writing 71.0% of overall premiums. **Figure 1** displays the market share of the top 25 insurers versus the rest of the market in 2023.

Figure 1. Insurance Market Concentration

2023; Net Premiums; $ Billions



Source: Figure created by CRS using data from A. M. Best for 2023.

Different lines of insurance present different characteristics and risks. Life insurance is typically a longer-term proposition with contracts stretching over decades and insurance risks that are relatively well defined in actuarial tables. Annuity products, which are also usually offered by life insurers, present similar long-term insurance risks. Particular life insurance and annuity products, however, may be based on securities, such as stocks or bonds, and thus may present shorter-term risks more similar to investment products for both the consumer and the insurer. Property/casualty insurance is typically a shorter-term proposition with six-month or one-year contracts and greater exposure to catastrophic risks.

Health insurance has evolved in a different direction than has life and property/casualty insurance. Many health insurance companies are heavily involved with health care delivery—including negotiating contracts with physicians and hospitals—rather than purely insurance operations. The health insurance regulatory system is much more influenced by the federal government through Medicare, Medicaid, the Employee Retirement Income Security Act (P.L. 93-406), and the Patient Protection and Affordable Care Act (P.L. 111-148) than life and property/casualty insurance is. The following discussion focuses on property/casualty and life insurance.

Role of Federal and State Governments

The role of the federal government in regulating private insurance is relatively limited compared with its role in banking and securities. Insurance companies, unlike banks and securities firms, have been chartered and regulated solely by the states for the past 150 years. There are no federal regulators of insurance akin to those for securities or banks, such as the Securities and Exchange Commission or the Office of the Comptroller of the Currency, respectively.

Each state government has a department or other entity charged with licensing and regulating insurance companies and those individuals and companies selling insurance products. States regulate the solvency of the companies and the content of insurance products as well as the market conduct of companies. Although each state sets its own laws and regulations for insurance, the National Association of Insurance Commissioners (NAIC) acts as a coordinating body that sets national standards through model laws and regulations. Before having legal effect, models adopted by the NAIC must be enacted by the states, which can be a lengthy and uncertain process. The states have also developed a system of guaranty funds designed to protect policyholders in the event of insurer insolvency.

The limited federal role stems from both Supreme Court decisions and congressional action. In the 1868 case *Paul v. Virginia*, the Court found that insurance was not considered interstate commerce and thus not subject to federal regulation. This decision was effectively reversed in the Court's 1944 decision *U.S. v. South-Eastern Underwriters Association*. In 1945, Congress passed the McCarran-Ferguson Act (15 U.S.C. §§1011 et seq.), specifically preserving the states' authority to regulate and tax insurance and granting a federal antitrust exemption to the insurance industry for "the business of insurance."

In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) significantly altered the overall U.S. financial regulatory structure, but it largely left the state-centered insurance regulatory structure intact. The act did affect insurance regulation somewhat in several areas: (1) enhanced systemic risk regulatory authority, including authority over insurers, was vested in the Federal Reserve and in the new Financial Stability Oversight Council (FSOC); (2) oversight of bank and thrift holding companies, including companies with insurance subsidiaries, was consolidated in the Federal Reserve with new capital requirements added; and (3) a new Federal Insurance Office (FIO) was created within the Department of the Treasury. Dodd-Frank also included measures affecting the states' oversight of surplus lines insurance and reinsurance.

Policy Issues

Congressional attention to insurance issues can be broken into a number of broad areas:

Targeted federal legislation changing the state regulatory system. The 50-state system of insurance regulation has been criticized on a variety of grounds, including for inefficiency due to perceived duplicative and burdensome regulation among states and for ineffectiveness in ensuring nondiscriminatory outcomes for insurance consumers. Such criticism has resulted in past proposals ranging from a full federal chartering system for insurers to narrower targeted efforts to alter the state system. Examples of such proposed legislation have included limited federal regulation of auto insurance rating factors (H.R. 3880, 118th Congress) and expansion of the federal Liability Risk Retention Act, which preempts state insurance company licensure laws for a small subset of insurance companies (H.R. 4523, 116th Congress).

The treatment of insurers under Dodd-Frank's systemic risk regime. Under Dodd-Frank's provisions, the FSOC designated three of the largest insurers for enhanced regulation by the Federal Reserve (popularly known as systemically important financial institutions or SIFIs) between 2013 and 2014. Since the initial designations, one insurer's designation was rescinded by a court decision, and two were rescinded by FSOC. At this time, no insurer is designated for enhanced regulation. In the 117th Congress, H.R. 3099 would have added a voting state insurance regulator representative to FSOC.

Federal Reserve capital standards and insurers. Banking and insurance present different risk profiles, and it is generally accepted that they require different capital standards. In October 2023, the Federal Reserve finalized a rule establishing capital requirements for insurers it supervises. In the 116th Congress, S. 3123 would have directed the Federal Reserve to tailor its insurance capital standards and give additional deference to the state insurance regulators.

The role and powers of FIO. Dodd-Frank gave FIO a number of roles both domestically and internationally. Exactly how the mandates are applied and how FIO interacts with existing actors—such as the NAIC, the International Association of Insurance Supervisors (IAIS), and the U.S. Trade Representative—is not enumerated in the statute. Among the authorities vested in FIO is the ability to gather data. FIO advanced a data call under its own authority to assess "climate-related financial risk" in November 2023. This data call, however, engendered controversy, and ultimately FIO joined with the NAIC on a collaborate effort to collect such data under state authorities. In the 118th Congress, H.R. 2933 and S. 1694 would have abolished FIO, while S. 3349 and H.R. 5532 would have limited FIO's ability to compel insurers to provide data to the office.

Response to international developments. In 2017, the United States and the European Union (EU) concluded a covered agreement particularly addressing issues around U.S. collateral requirements for non-U.S. insurers and EU supervisory requirements for non-EU insurers under the EU Solvency II regulatory modernization program. This agreement provoked opposition by the states and some portion of the insurance industry but entered into force in 2018. As of September 2022, all the individual states had adopted new laws and regulations, avoiding additional federal actions under the covered agreement. A similar covered agreement was concluded in 2018 between the United States and the United Kingdom in light of the latter's withdrawal from the EU.

On a separate but somewhat interrelated track, the IAIS has been developing new supervisory and capital standards for insurers, which some fear could disadvantage the U.S. system. P.L. 115-174 directed federal negotiators to achieve consensus with the states in international standard-setting negotiations. In November 2023, the IAIS finalized the comparability assessment of the existing U.S. method, finding that this method "provides a basis … to produce comparable outcomes."

Disruption in Property Insurance Markets

Rising and unexpected losses, largely due to weather events and wildfires along with generally increasing inflation, have led to difficulties for homeowners and other property owners in finding and affording insurance. In some cases insurers have pulled back from offering insurance at all in addition to increasing prices. Many states have some form of *insurer of last resort* (or *residual market*)—a state-sponsored plan of some type that offers insurance when private insurance cannot be found. These plans have seen substantial increases, particularly in Florida and California. Congress has focused on these issues with hearings in the House and the Senate. In the 118th Congress, H.R. 3525, H.R. 3997, and H.R. 6944 would each have created different federal programs to support property insurance markets under stress from increasing disaster losses.

CRS Resources

CRS Report R41372, *The Dodd-Frank Wall Street Reform and Consumer Protection Act: Insurance Provisions*

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